

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY
SEEKING REVIEW OF PRISON DISCIPLINARY SANCTIONS

United States District Court		District	Southern District of Indiana
Name	JAY EDWARD JOHNSON	Prisoner No.	102709
		Case No.	WV 07-12-0004
Place of Confinement			
WABASH VALLEY CORRECTION FACILITY			
<p align="center">2:08-cv-0134-LJM-JMS</p>			
Name of Petitioner (include name under which convicted)		Name of Respondent (include name of person having custody of petitioner)	
JAY EDWARD JOHNSON		ALAN FINNAN	
The Attorney General of the State of Indiana			
STEVE CARTER			

PETITION

- Name and location of Prison Disciplinary Body, which determined guilt: LT. LINNWEBER, LT. BREWER, SGT. ? UNABLE TO MAKE OUT, WABASH VALLEY CORR. FACILITY
- Date of Guilt determination: 12-11-2007
- Sanctions imposed: 6 MONTHS SEGREGATION, 90 DAYS LOSS EARNED CREDIT TIME, 2 MONTH PHONE LOSS, WRITTEN REPRIMAND
- Nature of rule infractions involved (all counts) 213-B THREATENING
- What was your plea? (Check one)
 - Not guilty ☒
 - Guilty ☐
- If you pleaded not guilty, what kind of disciplinary hearing did you have? (Check one)
 - Screening Officer Hearing ☐
 - Full Hearing ☒
- Did you testify at your disciplinary hearing?

Yes ☒ No ☐
- Did you appeal from the guilty determination and imposition of sanction(s)?

Yes ☒ No ☐

9. If you did appeal, answer the following:

- (a) Name and title of Reviewing Authority: ALAN FINNAN, SUPERINTENDENT
- (b) Result DENIED
- (c) Date of result 1/17/08
- (d) Grounds raised ^① OFFICER WHO WROTE ME UP PRESENTED NO SOLID EVIDENCE. I WAS RANDOMLY PICKED OUT OF A GROUP.
^② MY WITNESS WAS ADMITTED TO SAYING WHAT I SUPPOSEDLY SAID.
^③ I WAS DENIED VIEWING OF VIDEO CAMERA. ^④ THE DILLIB MADE COMMENTS THAT DIDN'T PERTAIN TO CASE AND WAS IMPARTIAL.

(e) If you sought further review of the decision on appeal by a higher Reviewing Authority, please answer the following:

- (1) Name and title of Higher Reviewing Authority: CHARLES PENFOLD
- (2) Result DENIED
- (3) Date of result 3/10/08
- (4) Grounds raised ^① I WAS DENIED VIDEO ^② OFFICER WROTE ME UP BECAUSE HE THOUGHT HE HEARD MY VOICE. ^③ OFFICER WHO I ALLEGEDLY SAID THIS TO PROVIDED NO STATEMENT. ^④ DILLIB WAS IMPARTIAL BY SAYING COMMENTS NOT PERTAINING TO MATTER

10. Have you previously filed any petitions, applications, or motions with respect to this Disciplinary Finding in any court, state or federal?

Yes ☐

No ☒

11. If your answer to 10 was 'yes,' give the following information:

- (a) (1) Name of court _____
- (2) Nature of proceeding _____
- (3) Grounds raised _____
- _____
- _____
- _____
- _____

- 12 State *concisely* every ground on which you claim that you were unconstitutionally deprived of credit time or subjected to unconstitutional disciplinary punishment. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in federal court, you must first exhaust all available administrative appellate remedies as to each ground on which you request relief from federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date. It is suggested that you read *Marham v Clark*, 978 F.2d 1057 (7th Cir. 1990) prior to filing this petition.

- (A) GROUND ONE: OPPORTUNITY TO CALL WITNESS AND PRESENT DOCUMENTARY EVIDENCE IN DEFENSE WHEN CONSISTENT WITH CORRECTIONAL GOALS.

SUPPORTING FACTS (state *briefly* without citing cases or law) I REQUESTED THE VIEWING OF VIDEO CAMERA WHEN I WAS SCREENED TO SEE IF I WAS NOWHERE IN VICINITY OF OFFICER WHO WROTE ME UP OR GARDEN WHO I WAS ACCUSED OF SAYING THIS TO. I AGAIN ADDRESSED THIS TO D.H.B. THRU VOICE AND WRITTEN STATEMENT, CONTINUANCE FOR THIS WAS DENIED.

I ALSO CALLED FOR A WITNESS DURING HEARING WHO WAS GOING TO ADMIT TO SAYING WHAT I WAS ACCUSED OF.

- (B) GROUND TWO: THE ~~ON~~ SOME EVIDENCE TO SUPPORT THE DECISION

SUPPORTING FACTS (state *briefly* without citing cases or law) OFFICER WHO I SUPPOSEDLY SAID THIS TO PROVIDED NO STATEMENT. OFFICER WHO WROTE ME UP PRESENTED NO EVIDENCE OR ACCUSATION THAT HE CLEARLY OBSERVED ME, STATED WHERE I WAS AT OR ETC. ONLY THAT HE HEARD ME.

- (C) GROUND THREE: OPPORTUNITY TO BE HEARD BEFORE AN IMPARTIAL DECISION MAKER

SUPPORTING FACTS (state *briefly* without citing cases or law) D.H.B. CHAIRMAN LT. LINDSEY BECAME LOCALLY UPSET WHEN HE FOUND OUT WHO MY WITNESS WAS. COMMENTS WERE MADE LIKE "SMITH IS A SMART-ALICE AND TROUBLE MAKER THAT I SHOULDN'T EVEN BE AROUND HIM". WHICH MADE ME FEEL LIKE I WAS FOUND GUILTY BY ASSOCIATION AND THE BIAS D.H.B. FELT TOWARDS MY WITNESS. I ALSO HAD NO STAFF MEMBERS ON MY D.H.B. ONE OF THE D.H.B. MEMBERS LT. BREWER WAS THE SHIFT SUPERVISOR WHO SIGNED MY INVESTIGATION PAPER ON 12/16/07 REGARDING THIS CASE

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(Rev. 5/85)

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in your administrative appeal, state briefly what grounds were not presented and give your reasons for not presenting them at the administrative level:
- I DIDN'T GO INTO DETAIL ABOUT HAVING 2 LIEUTENANTS AND 1 SERGEANT ON DUTY UNTIL IT WAS RECENTLY BROUGHT TO MY ATTENTION BY STAFF THAT IT WAS WRONG. I DID MENTION ALL 3 OF THEM IN STEP 2 APPEAL. REGARDING LT. BREWER SIGNIN INVESTIGATION MATTER AND ETC. I JUST NOTICED IT TODAY.
14. Do you have any petition or appeal now pending in any court or administrative agency, either state or federal, as to the judgment under attack?
- Yes ☐ No ☒
15. Give the name, Title, and/or D.O.C. Numbers, if known, of each offender, of any staff or lay advocates, who represented you in the following stages of the disciplinary proceedings in the following stages of the judgment attacked herein:
- (a) At Disciplinary hearing: NO LAY ADVOCATE
- (b) At Institutional Level Appeal: NO LAY ADVOCATE
- (c) At I.D.O.C. Level Appeal: NO LAY ADVOCATE

WHEREFORE, Petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Jay Johnson
Signature of Petitioner

I declare under penalty of perjury that the foregoing is true and correct. Executed on

3-24-08
DATE

Jay Johnson
Signature of Petitioner